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GOVERNMENT OF PUNJAB

DEPARTMENT OF INDUSTRIES AND COMMERCE

(Controller of Stores)

ORDER

The 3rd September, 2019

No.COS/PPO-2019/ 11726.- Subject: Public Procurement (Preference to Make in Punjab) Order 2019.

The Governor of Punjab is, hereby, pleased to accord Approval to Public Procurement (Preference to Make in Punjab) Order 2019. This will give a fillip to the manufacturing sector in Punjab through incentivizing local value addition, by providing them a purchase preference in public procurement done by the state Govt. departments and its agencies.

Whereas, it is the policy of the Government of Punjab to promote manufacturing and production of goods in Punjab with a view to enhance income and employment generation, and whereas, procurement by the Government is substantial in amount and can contribute towards this policy objective.

Therefore, the following order is issued with regard to procurement of goods by procuring entities. It is clarified that this order does not apply to procurement of services and works contracts:-

1. Definitions: For the purposes of this order:

Local content means the amount of value added in Punjab which shall be the total value of the item procured minus the value addition to the item outside the state of Punjab (excluding taxes), as a proportion of the total value, in percent.

Local supplier means a supplier whose product offered for procurement meets the minimum local content as prescribed under this order or by competent Departments in pursuance of this order.

L-1 means the lowest tender or lowest bid or lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

Margin of purchase preference means the maximum extent to which the price quoted by a local supplier may be above the L-1 for the purpose of purchase preference.

Procuring entity means a department or subordinate office, autonomous body, boards, corporations owned or controlled by the Government of Punjab, and includes the urban local bodies and PRIs in the state.

Works Contract means a contract as defined u/s 65 of Finance Act.

Divisible goods mean goods which can be broken up into smaller units for procurement.

2. Requirement of Purchase Preference: Subject to the provisions of this order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities controlled by the Government of Punjab in the manner specified hereunder.

- a) In procurement of goods where there is sufficient local capacity and local competition so that there are at least six local manufacturers/suppliers eligible as per the tender conditions as identified by concerned department and where the estimated value of procurement is Rs. 30 lakhs or less only local suppliers shall be eligible.
- b) In the procurements of goods which are not covered by paragraph (a) i.e. estimated value of procurement is more than 30 lakhs or there is not sufficient local capacity present and in case of goods which are **divisible** in nature, the following procedure shall be followed.
 - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier/ manufacturer, the contract for full quantity will be awarded to L1(subject to capacity).
 - ii. If L1 bid is not from a local supplier, 50% (subject to capacity) of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers will be invited to match the L1 price for the remaining 50% quantity subject to the local suppliers quoted price falling within the prescribed margin of purchase preference and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity the next higher local supplier/manufacturer within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on. And contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- c) In procurements of goods not covered by sub-paragraph (a) and which are **not divisible** and where the bid is evaluated on price alone the following procedure shall be followed:
 - i. Among all qualified bids, the lowest bid will be termed as L1. if L1 is from a local supplier, the contract will be awarded to L1.
 - ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference and the contract shall be awarded to such local supplier subject to matching the L1 price.
 - iii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly, In case none of the local suppliers within the margin of purchase preference matches the L1 price then the contract may be awarded to the L1 bidder.

3. Exemption of small purchases: Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 1 lakh shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not spilt for the purpose of avoiding the provisions of this Order.

4. Minimum local content: The minimum local content shall ordinarily be 40%. The concerned department may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.

5. Prescribed Margin of Purchase Preference: The prescribed margin of purchase preference shall be 15%.

6. Requirement for specification in advance: The minimum local content, the prescribed margin of purchase preference and the procedure for preference shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

7. Exemption: Concerned Departments should enlist the items which are to be exempted from this order within three months from date of issuance of this order and this list should be sent to Member Secretary, Standing Committee.

8. Verification of local content:

- a. The local manufacturer/supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
- b. In case of procurement for a value in excess of Rs. 2crores, the local manufacturer/supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
- c. Every local manufacturer/supplier shall be required to give a certificate detailing the local content in his product. This list shall be put in public domain and 7 working days shall be provided for filing any claim/objection regarding the genuineness of this certificate. If no claim/objection is received within the prescribed period, the local content certificate shall be deemed to be correct.
- d. Concerned Department may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/accountant's certificates on random basis and in the case of complaints. For this purpose, the concerned department may seek help from Controller of Stores.
- e. Any claim/objection regarding the genuineness of certificate of local content shall be filed by the complainant on an affidavit of Rs.25.
- f. False declarations under Para(8a) and (8b) will lead to debarment and blacklisting of such suppliers for two years by the procuring entities.
- g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this order for procurement by any other procuring entity for the duration of the debarment. The list of such debarred suppliers under this Order by any procuring entity shall be sent to O/o Controller of Stores, Punjab, and consolidated list of debarred and blacklisted suppliers shall be circulated to all other Govt. Departments.

- h. A Committee under Chairmanship of Controller of Stores, is constituted with following members :
- I. Finance department nominee: -Member
 - II. Excise and Taxation Commissioner or his nominee: - Member
 - III. Controller, Printing & stationary : - Member
 - IV. Additional Controller, Controller of Stores: - Member Secretary
 - V. Director, Department of Governance Reforms or his nominee: -Member

This Committee will look into all the issues related to debarment:

- (i) The fact and duration of debarment for violation of this Order by any procuring entity shall be promptly brought to the notice of this Committee through the concerned Department or in some other manner.
- (ii) On a periodical basis such cases will be consolidated and a centralized list or decentralized list of such suppliers with the period of debarment will be maintained with this Committee.
- (iii) In respect of procuring entities other than the one which has carried out the debarment, the debarment shall take effect prospectively, from the date of debarment order issued, in such a manner that ongoing procurements are not disrupted.
- (iv) All disputes related to debarment by procuring entities shall be considered by this committee.

9. Specifications in Tender and other procurement solicitations:

- a. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- b. Procuring entities shall within 3 months of the issue of this policy review all existing eligibility norms and conditions with reference to paragraph 'a' above.

10. Assessment of supply base by Departments: The Concerned Department shall keep in view the domestic manufacturing/supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoid cost from the operation of the Order.

11. Standing Committee: A Standing Committee is hereby constituted with the following membership:

- 1) Administrative Secretary, Department of Industries and Commerce - Chairperson
- 2) Administrative Secretary, Department of Finance - Member
- 3) Administrative Secretary, Department of Health and Family Welfare - Member
- 4) Administrative Secretary, Department of Public Works - Member
- 5) Administrative Secretary, Department of School Education - Member
- 6) Administrative Secretary, Department of Water Supply and Sanitation - Member
- 7) Administrative Secretary, Department of Local Government - Member
- 8) Administrative Secretary, Department of Rural Development and Panchayat - Member
- 9) Director, Industries and Commerce - Member Secretary

The Secretary of the department concerned with a particular item shall be a Member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

12. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary as but not less than once in six months. The Committee

- a. shall oversee the implementation of this order and issues arising there from and make recommendations to the procuring entities.
- b. shall annually assess and periodically monitor compliance of this Order.
- c. may require furnishing of details or returns regarding compliance of this Order and related matters.
- d. may during annual review, or otherwise, assess issues if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures.
- e. may consider any other issue relating to this Order which may arise.
- f. shall take decisions on all complaints relating to implementation of this order.
- g. May exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this policy or any part of the Order.

13. Removal of difficulties: Any difficulty arising in the implementation of this Order by any procuring entity shall be referred by them to the Department of Industries and Commerce, Punjab, which shall issue such clarification or instructions as may be necessary for removal of these difficulties.

14. Departments having existing policies: Wherever any Department has its own policy for preference to local content, this Order shall prevail over the provisions of such existing policies.

15. Transitional provision: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

This Order issues with the approval of the Council of Ministers, Government of Punjab conveyed vide letter No.1/90/2019-1cabinet/ 2557 dated: 25.07.2019.

The 9th August, 2019

VINI MAHAJAN, IAS
Additional Chief Secretary to Govt. of Punjab,
Department of Industries and Commerce.